



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2022-0581; FRL-10168-01-R5]

**Air Plan Approval; Wisconsin; VOC RACT for Miscellaneous
Industrial Adhesives and Miscellaneous Metal and Plastic Parts
Coatings**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions related to the volatile organic compound (VOC) reasonably available control technology (RACT), submitted by the Wisconsin Department of Natural Resources ("Wisconsin" or "WDNR") on June 28, 2022. The proposed SIP revisions consist of several additions, corrections, and clarifications within the Wisconsin Administrative Code (WAC) NR 400 series and update the VOC RACT requirements for the Miscellaneous Industrial Adhesives and Miscellaneous Metal and Plastic Parts Coatings Control Techniques Guidelines (CTG) source categories. Also, EPA is proposing to approve Wisconsin's August 10, 2022, request to remove three previously approved Administrative Orders from the SIP. The request to remove these Administrative Orders includes a 110(l) demonstration highlighting that the revisions to Wisconsin's rules do not interfere with any applicable requirement concerning attainment or any other applicable

requirement of the Clean Air Act (CAA) because this SIP revision is a direct replacement for the previously approved orders. These SIP revisions apply to nonattainment areas in Wisconsin classified as moderate or above under the 2008 or later ozone National Ambient Air Quality Standards ("NAAQS" or "standard"). These revisions are consistent with the CTG documents issued by EPA in 2008 and are approvable because they serve as SIP strengthening measures.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2022-0581 at <https://www.regulations.gov>, or via email to arra.sarah@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional

submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Katie Mullen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-3490, mullen.kathleen@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

I. What is EPA proposing?

EPA is proposing to approve SIP revisions adopted in Board Order AM-20-18 submitted by Wisconsin on June 28, 2022 consisting of additions, corrections, and clarifications to WAC chapters 400, 419, 421, 422, 423, 425, 439, and 484. Specifically, these revisions include adding definitions to ensure consistency with the CTGs, correcting inadvertent errors from past rulemakings, clarifying “once in, always in” requirements for rules in WAC chapter NR 422, modifying chapters to ensure compatibility with new and existing rules, and incorporating updated VOC RACT

requirements for the Miscellaneous Industrial Adhesives and Miscellaneous Metal and Plastic Parts Coatings CTG source categories. EPA is proposing to approve Wisconsin's request for the removal of the previously approved Administrative Orders AM-20-01, AM-20-02, and AM-20-03, submitted in a letter from WDNR on August 10, 2022. When EPA approves this action, it concurrently removes these three Administrative Orders from the Wisconsin SIP, since Board Order AM-20-18 replaces AM-20-01, AM-20-02, and AM-20-03. These SIP revisions apply to nonattainment areas in Wisconsin that have been classified as moderate or above under the 2008 or later 8-hour ozone NAAQS. These revisions correspond to and are consistent with the source categories and control recommendations in the CTGs issued by EPA in 2008.

II. What is the background for this action?

VOCs contribute to the production of ground-level ozone, or smog, which harms human health and the environment. RACT is defined as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762). Sections 172(c)(1) and 182(b)(2) of the CAA require states to implement RACT in ozone nonattainment areas classified as moderate and higher. Specifically, these areas are required to implement RACT for all VOC sources covered by the latest CTGs. A CTG is a document issued by EPA that establishes a "presumptive norm" for

RACT for a specific VOC source category.

Administrative orders AM-20-01, AM-20-02, and AM-20-03 were issued to meet RACT requirements under CAA section 182(b)(2)(A) for three sources of VOC emissions located in ozone nonattainment areas classified as moderate for the 2008 ozone NAAQS. EPA approved Administrative Order AM-20-01, issued to the Insinkerator facility, in the Wisconsin SIP on September 16, 2020 (85 FR 5772). The facility was located in the Kenosha County, Wisconsin portion of the tri-state Chicago-Naperville (IL-IN-WI) area which had been previously designated nonattainment for the 2008 ozone NAAQS. On April 11, 2022, EPA redesignated the Kenosha nonattainment area under the 2008 ozone standard (87 FR 21027). This facility ceased operations in July 2021, and WDNR has confirmed closure.

EPA approved Administrative Orders AM-20-02, issued to Kieffer & Co. Inc (Kieffer), and Administrative Order AM-20-03, issued to Kohler Power Systems (Kohler), on July 10, 2020 (85 FR 41405). The Kieffer and Kohler facilities are both located in the Shoreline Sheboygan County area previously designated nonattainment under the 2008 ozone NAAQS. On July 10, 2020, EPA redesignated Shoreline Sheboygan nonattainment area under the 2008 ozone standard (85 FR 41405). When these administrative orders were issued in 2020, the three sources conducted operations covered by EPA's CTG for Miscellaneous Metal and Plastic Parts Coatings. Also, at the time of issuance, Wisconsin was in the process of developing Board Order AM-20-18,

which incorporates VOC RACT regulations for the Miscellaneous Metal and Plastic Parts Coatings CTG source category. The purposes of the administrative orders were to make the CTG for Miscellaneous Metal and Plastic Parts Coatings federally enforceable for applicable sources and to meet VOC RACT requirements for Wisconsin's Kenosha and Shoreline Sheboygan nonattainment areas under the 2008 ozone NAAQS until Board Order AM-20-18 was approved in the Wisconsin SIP.

Wisconsin has revised its existing VOC RACT regulations to reflect the Miscellaneous Metal and Plastic Parts Coatings and Miscellaneous Industrial Adhesives CTG source categories issued by EPA in 2008. Wisconsin's existing VOC RACT rules (referred to as "Part I" rules) for these source categories will continue to apply in the state. The updated VOC RACT requirements ("Part II" rules) apply in the state's ozone nonattainment areas that have been classified as moderate or above for any national ozone standard promulgated in or after 2008.

The rule changes are primarily associated with the addition of the Part II rules, which incorporate the CTGs' VOC content limits for specific types of coatings and adhesives. Also, Wisconsin's submittal contains several additions, corrections, and clarifications within Chapter NR 422 of the WAC that affect current rule language for these source categories.

Overall, the primary purpose of these revisions is to remove Administrative Orders AM-20-01, AM-20-02, and AM-20-03 from the SIP and replace them with these SIP revisions which are

consistent with the Miscellaneous Metal and Plastic Parts Coatings and Miscellaneous Industrial Adhesives CTG source categories issued by EPA in 2008. These revisions also serve as SIP strengthening measures for the Miscellaneous Metal and Plastic Parts Coatings and Miscellaneous Industrial Adhesives VOC source categories.

III. What is EPA's evaluation of Wisconsin's VOC RACT submittal?

EPA has reviewed Wisconsin's revised VOC rules for the Miscellaneous Metal and Plastic Parts Coatings and Miscellaneous Industrial Adhesives CTG source categories, which include: adding definitions to ensure consistency with the CTGs, correcting inadvertent errors from past rulemakings, clarifying "once in, always in" requirements for rules in Ch. NR 422, WAC, modifications to ensure compatibility of existing and new rules, and incorporation of new miscellaneous metal and plastic parts coatings and industrial adhesive requirements.

The proposed revisions are consistent with the latest Miscellaneous Metal and Plastic Parts Coatings and Miscellaneous Industrial Adhesives CTGs published by EPA in 2008. A brief discussion of these revisions follows.

A. Clarification of Existing Rule Language

Language in WAC Chapter NR 422.01(3), (4), and (Note) explain that once a source becomes subject to a VOC RACT rule in Ch. NR 422, it remains subject to the rule regardless of future reductions in emissions ("once in, always in"), unless an

approved federally enforceable permit or SIP revision permanently restricts the source's production, capacity utilization, or the hours of operation so that the source's maximum theoretical emissions are below the applicability threshold(s) in Chapter NR 422. This clarification meets the applicable federal VOC RACT exemption requirements identified in EPA's August 23, 1990 memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, entitled "Once-in/Always-in' Requirement for Applicability." In addition, changes to NR 422.03, 422.05 (1m), 422.06 (1m), 422.08 (1m), 422.14 (1m), and 422.145 (1m) include eliminating the redundancy of the "once in, always in" language in these chapters.

B. Definitions

Definitions in the following sections of the WAC are approvable, because they are consistent with the Miscellaneous Metal and Plastics Parts Coatings and Miscellaneous Industrial Adhesives CTGs:

- NR 422.02 (1d), (1h), (3g) (3r), (4g), (4r), (10m) and (Note), (12o), (12q), (15m), (19f), (19v), (19x), (20q), (20u), (20y), (21d) (21j), (25g), (25r), (32m), (34d), (34v), (36m), (38m), (41e), (41m), (41s), (42d), (42h) and (Note), (42s), (45s), (53j), (53k), (54a), (54b), (54c), (54d), (54e), (54f) and (Note), (54g), (54h), (54i) and (Note), (54j), (54k), (54L), (54o), (54y) and (Note), (57s), (58m), (61s), (63m), (64g), (64q), (64u), (65e), (65m), (65s), (66m), (74m) and (Note), (75m), (80f) and

(Note), (86e), (86m), (86s), (87d), (87h), (87L), (93m), (95s), (100m), (104m), (106s), and (109s).

- NR 422.084(2)(a), (2)(b), (2)(c), (2)(d), (2)(e)
- NR 422.151(2)(a), (2)(b), (2)(c), (2)(d), (2)(e)

C. Adoption of CTGs as "Part II" rules

The following Part II rules apply to sources that meet the applicability threshold in areas of the state that have been classified as moderate or higher for any national ozone standard promulgated in or after 2008 and are consistent with the Miscellaneous Metal and Plastics Parts Coatings and Miscellaneous Industrial Adhesives CTGs.

- NR 422.084 is a regulation that incorporates the Miscellaneous Metal and Plastic Parts Coatings CTG's VOC control measures for plastic parts coatings.
- NR 422.128 is a regulation that incorporates the Miscellaneous Industrial Adhesives CTG's VOC control measures for adhesive use.
- NR 422.151 is a regulation that incorporates the Miscellaneous Metal and Plastic Parts Coatings CTG's VOC control measures for miscellaneous metal parts and products coatings.

D. Updates to Ensure Consistency with Part II Rules

- Revisions to NR 422.04(1)(a) update current Methods of Compliance to include references to the Part II rules.
- Revisions to NR 423.035(2)(a)(1) and NR 423.037(2)(a)(1) update current *Industrial cleaning operations - part 1 and*

part II to include references to the Part II rules.

- Revisions to NR 425.04(3)(a) update *Exceptions and non-ozone season allowances* language include references to the Part II rules.
- Revisions to NR 439.04(4)(intro.), (4)(a), (4)(b), (4)(c), (4)(d), (4)(e), (4)(f), (4)(g), (5)(a)(intro.), (5)(a)(2), (5)(a)(2)(intro.), (5)(a)(2)(b), and (5)(f)(intro.) update *Recordkeeping* language to include references to the Part II rules.

E. Corrections

- Revisions to NR 422.03 (intro.) and (7) eliminate conflicts between current language in NR 422.03 (7), which establishes exemptions from Chapter NR 422 limits for facilities using 55 gallons or less of a coating, and current exemption language in NR 422.095. The changes also avoid a conflict with NR 422.084 *Plastic parts coating - Part II* exemption language.
- Revisions to NR 422.15(1)(am)(2) and NR 422.15(10) correct previous rulemaking language to include the counties of Kewaunee, Manitowoc, and Walworth in the *Miscellaneous metal parts and products - Part I* rule.
- Revisions to NR 422.083(1)(a)(Note) and NR 422.083(1)(b)(Note) remove two notes describing the maximum theoretical emission calculation from the *Plastic parts coating - Part I* rule since the information in the notes are provided elsewhere in Chapter NR 422.

- Revisions to NR 422.083(1) (a) and NR 422.083(1) (b) update the types of VOC emissions that should be excluded from a source's maximum theoretical emissions in section NR 422.083 *Plastic parts coatings - part I* and update references to sections of Chapter NR 422.

F. Removal of Administrative Orders

In 2020, EPA approved Administrative orders AM-20-01, AM-20-02, and AM-20-03 to meet RACT requirements under CAA section 182(b) (2) (A) for three sources of VOC emissions located in ozone nonattainment areas classified as moderate for the 2008 ozone NAAQS. Specifically, the administrative orders incorporate EPA's CTG for Miscellaneous Metal and Plastic Parts Coatings. EPA is proposing to approve Wisconsin's request for the removal of previously approved Administrative Orders AM-20-01, AM-20-02, and AM-20-03 submitted in a letter from WDNR on August 10, 2022. When EPA approves this action, it concurrently removes these three Administrative Orders from the Wisconsin SIP. As required under section 110(1) of the CAA, Wisconsin certifies that the removal of Administrative Orders AM-20-01, AM-20-02 and AM-20-03 will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement governing air pollution prevention and control in the CAA. Wisconsin's Board Order AM-20-18 incorporating EPA's CTG for Miscellaneous Metal and Plastic Parts Coatings effectively replaces the three administrative orders. Additionally, AM-20-01 was issued to the Insinkerator

facility, which is no longer operational as of July 2021.

IV. What Action is EPA Taking?

EPA is proposing to approve in the Wisconsin SIP additions, corrections, and clarifications related to rules in WAC Chapters 400, 419, 421, 422, 423, 425, 439, and 484. These revisions are consistent with the Miscellaneous Industrial Adhesives and Miscellaneous Metal and Plastic Parts Coatings CTGs issued by EPA in 2008. These revisions are approvable because they serve as SIP strengthening measures for Wisconsin's VOC rules. . Also, EPA is proposing to approve Wisconsin's request for the removal of the previously approved Administrative Orders AM-20-01, AM-20-02, and AM-20-03, submitted in a letter from WDNR on August 10, 2022. When EPA approves this action, it concurrently removes these three Administrative Orders from the Wisconsin SIP, because the SIP revisions under Board Order AM-20-18 replace AM-20-01, AM-20-02, and AM-20-03.

V. Incorporation by Reference.

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Wisconsin Administrative Code rules NR 400, NR 419, NR 421, NR 422, NR 423, NR 425, NR 439, and NR 484 as published in the Wisconsin Register #797B on May 31, 2022, effective June 1, 2022, discussed in section III of this preamble. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at

the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: January 24, 2023.

Debra Shore,
Regional Administrator, Region 5.

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